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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,244

06/05/2006

Kai Dolling

Muller-52

8017

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7590

06/05/2008

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EXAMINER

FIORITO, JAMES

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

06/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,244	Applicant(s) DOLLING ET AL.	
	Examiner JAMES A. FIORITO	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-12 and 14 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-12 and 14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6-12, and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the additional substituents" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 is indefinite as to whether the limitation "(as Al₂O₃)" is required by the claim or not.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koch US 3152865 in view of Noweck US 6773690.

Koch teaches a process of making boehmite alumina by hydrothermal aging of an aluminum alcoholate (Column 1 Lines 35-45) in the presence of a chelating agent comprised of an organic component containing multi carboxylate ions or a

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polycarboxylic radical (Column 3 Lines 15-29). The chelating agent is generally used in an amount of about 0.5% to 3% of the dry alumina (Column 2 Lines 44-45). The pH of the mixture is greater than 7, preferably between 8 and 9.5 (Column 2 Lines 35-40).

Koch does not expressly state that the aging process is performed at temperature between 120 and 250 degrees C.

Noweck teaches a process of making boehmitic aluminas, where in a metallic or nonmetallic oxide, or oxide hydrate is present in a hydrothermal aging process, requiring an aging temperature of between 40 and 240 degrees C (Column 3 Lines 5-13).

At the time of invention it would have been obvious to a person of ordinary skill in the art to form the process of Koch including the use of a metallic or nonmetallic oxide, or oxide hydrate in the hydrothermal aging process, requiring an aging temperature of between 40 and 240 degrees C in view of the process of Noweck. The suggestion or motivation for doing so would have been to make crystalline boehmite aluminas (Column 3 Lines 5-13).

Claims 1-4, 6-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noweck US 6773690 in view of Koch US 3152865.

Noweck teaches a process of making boehmitic aluminas, wherein aluminum alkoxides made by the Ziegler process are hydrolyzed in an aqueous environment (Column 2 Lines 37-40) at a pH of 9 (See Examples). A metallic or nonmetallic oxide, or oxide hydrate is present in the hydrothermal aging process, requiring an aging temperature of between 40 and 240 degrees C (Column 3 Lines 5-13).

Noweck does not teach that the hydrolysis is carried out in the presence of a carboxylic acid.

Koch teaches a process of making boehmite alumina by hydrothermal aging of an aluminum alcoholate (Column 1 Lines 35-45) in the presence of a chelating agent comprised of an organic component containing multi carboxylate ions or a polycarboxylic radical (Column 3 Lines 15-29). The chelating agent is generally used in an amount of about 0.5% to 3% of the dry alumina (Column 2 Lines 44-45). The pH of the mixture is greater than 7, preferably between 8 and 9.5 (Column 2 Lines 35-40).

At the time of invention it would have been obvious to a person of ordinary skill in the art to form the process of Noweck using the chelating agent taught by Koch. The suggestion or motivation for doing so would have been to perform a partial aging of alumina gel containing boehmite to a stabilized amount of trihydrate (Column 2 Lines 19-20).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. FIORITO whose telephone number is (571)272-7426. The examiner can normally be reached on 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A Fiorito/
Examiner, Art Unit 1793

/Wayne Langel/
Primary Examiner, Art Unit 1793